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09/844,693	04/26/2001	David W.J. Stringer-Calvert	SRI/4285-2	3289

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EXAMINER

PATEL, NIKETA I

ART UNIT PAPER NUMBER

2182

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/844,693

**Applicant(s)**

STRINGER-CALVERT ET AL.

**Examiner**

Niketa I. Patel

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/26/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-13 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Pandya et al. U.S. Patent Number: 6,671,724 (hereinafter referred to as "*Pandya*".)

3. **Referring to claim 1**, *Pandya* teaches a group management system comprising: a plurality of interconnected nodes [see figure 4 - elements 70, 22] communicatively coupled with each other as member nodes of a virtual private network ("VPN") [see figure 4 - elements 70, 72, 76; column 4 - lines 22-46, 'control points'; column 9 - lines 50-65]; and a plurality of master nodes [see figure 4 - elements 72], each of the master nodes controlling membership in the VPN for an associated non-empty subset of the member nodes [see column 4 - lines 22-46, 'control points'; column 7 - lines 3-39.]

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4. **Referring to claim 2**, *Pandya* teaches the system wherein a membership change in at least one of the subsets can be performed without notifying all of the master nodes not associated with the changed subset [see column 4 - lines 22-46; column 6 - lines 39-59.]

5. **Referring to claim 3**, *Pandya* teaches the system wherein at least two of the subsets do not share any member nodes in common [see column 7 - lines 3-39; column 6 - lines 39-59.]

6. **Referring to claim 4**, *Pandya* teaches the system wherein at least two of the subsets share at least one member node in common [see column 7 - lines 3-39; column 6 - lines 39-59.]

7. **Referring to claim 5**, *Pandya* teaches the system wherein a communication involving said common member node can be transmitted along multiple paths [see column 7 - lines 3-39; column 6 - lines 39-59.]

8. **Referring to claim 6**, *Pandya* teaches the system further comprising an intrusion detection mechanism that receives said multiple-path communication as input [see column 7 - lines 3-39; column 6 - lines 39-59.]

9. **Referring to claim 7**, *Pandya* teaches the system of wherein in the event one of the master nodes fails, the associated subset of member nodes will be automatically reassigned to one

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or more other of the master nodes [see column 7 - lines 3-39; column 6 - lines 39-59.]

10. **Referring to claim 8**, *Pandya* teaches the system wherein each of the member nodes is associated with at least one of the master nodes as a back-up master [see column 7 - lines 3-39; column 6 - lines 39-59.]

11. **Referring to claim 9**, *Pandya* teaches the system wherein the plurality of interconnected nodes are communicatively coupled as part of a peer-to-peer network [see column 6 - lines 26-35; column 10 - lines 12-15.]

12. **Referring to claim 10**, *Pandya* teaches the system wherein the plurality of master nodes are part of an edge-based content delivery network [see column 6 - lines 26-35.]

13. **Referring to claim 11**, *Pandya* teaches the system wherein the member nodes are allocated to the subsets at least partly based upon one or more criteria of connectivity between each of the member nodes and the corresponding master nodes [see column 4 - lines 22-46; column 6 - lines 26-35.]

14. **Referring to claim 12**, *Pandya* teaches the system wherein the connectivity criteria are selected from a group of criteria comprising geographical distance, topological distance, bandwidth, latency, jitter, financial cost, and political boundaries [see column 8 - lines 47-67; column 9 - lines 1-13.]

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15. **Referring to claim 13**, *Pandya* teaches the system wherein at least one of the master nodes further controls membership in another virtual overlay group different from the VPN [see column 7 - lines 3-39; column 6 - lines 39-59.]

16. **Referring to claim 17**, *Pandya* teaches the system wherein at least one of the master nodes are operable to remotely install software communication mechanisms for a new member node of the VPN without the necessity of installing augmented hardware for the new member node [see column 4 - lines 30-61; column 6 - lines 60-67; column 7 - lines 1-10.]

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

18. Claim 14-16 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Pandya et al.* U.S. Patent Number: 6,671,724 (hereinafter referred to as "*Pandya*".)

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19. **Referring to claim 14**, *Pandya* teaches the system of wherein an encryption key is used for communication [see column 9 - lines 50-65; column 10 - lines 52-65] however, does not set forth the limitation of the system of wherein a communication from a first one of the subsets of the member nodes uses a first encryption key, and a communication from a second one of the subsets uses a second encryption key that is different from the first encryption key.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention that it was old and well known in the computer networking art to get the advantage of secure data transmission by providing each unit/subset with it's own encryption key. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use two separate encryption keys for both of the subsets, to get this advantage.

20. **Referring to claim 15**, *Pandya* teaches the system of wherein an encryption key is used for communication [see column 9 - lines 50-65; column 10 - lines 52-65] however, does not set forth the limitation of the system wherein one or more of the master nodes are operable to translate between the encryption keys.

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It would have been obvious to one of ordinary skill in the art at the time of applicant's invention that it was old and well known in the computer networking art to get the advantage of allowing devices connected to two different subsets to communicate with each other by providing a master node with a encryption key translator. It would have been obvious to one or ordinary skill in the art at the time of applicant's invention to use encryption key translator to get this advantage.

21. **Referring to claim 16**, *Pandya* teaches the system of wherein an encryption key is used for communication [see column 9 - lines 50-65; column 10 - lines 52-65] however, does not set forth the limitation of the system wherein a communication from a first one of the subsets of the member nodes and a communication from a second one of the subsets of the member nodes both use the same encryption key.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention that it was old and well known in the computer networking art to get the advantage of saving resources by using same encryption key to communicate with a device that is being shared between two different subsets of the member nodes. It would have been obvious to one or ordinary skill in the art at the time of applicant's invention to use same encryption key to get this advantage.



***Response to Arguments***

22. Applicant's arguments filed 09/01/2004 have been fully considered but they are not persuasive.

The applicant argues that *Pandya* teaches a distributed network comprising a plurality of interconnected computing device, not a VPN. Specifically, *Pandya* does not teach or suggest (1) a network architecture that provides secure, private communications channels between select network devices and (2) that the master nodes control membership, see page 9 and similar arguments on pages 10 and 11.

The Examiner respectfully disagrees with both of these arguments.

As per the first argument, *Pandya* suggest that the ability of the present invention to implement policy based QoS between the application and transport layers has other advantages. This ***allows support for encryption*** and other security implementations carried out using ***Virtual Private Networking (VPN)*** or IPSec protocol, see column 9, lines 60-65. (Emphasis added)

As per the second argument, *Pandya* teaches ***control points to coordinate and control*** the activity of the distributed agents within their domains, see column 7, lines 6-10. Furthermore, *Pandya* teaches that the control points monitor the network and

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devices connected to the network to determine when **various rules apply and whether the conditions accompanying those rules are satisfied**, Once the control points determine that action is require, they take the necessary action(s) to enforce the system policies, see column 8, lines 1-6 and 21-31. (Emphasis added)

### **Conclusion**

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following documents have been made record of to further show the state of the art as it pertains to virtual private network:

Muniyappa et al. U.S. Patent Number: 6,092,200

Wipfel et al. U.S. Patent Number: 6,353,898

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated

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from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571) 272 4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP  
11/22/2004

  
KIM HUYNH  
PRIMARY EXAMINER

11/23/04